

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

ROCKWELL AUTOMATION, INC.
and ROCKWELL AUTOMATION
TECHNOLOGIES, INC.,

Plaintiffs,

v.

WAGO CORPORATION and WAGO
KONTAKTTECHNIK GMBH & CO. KG,

Defendants.

Case No. 3:10CV718-WMC

SECOND SUPPLEMENTAL DECLARATION OF RICHARD HOOPER, PH.D., P.E.

I, Richard Hooper, Ph.D., P.E., make the following second supplemental declaration in lieu of affidavit pursuant to Section 1746 of Title 28 of the United States Code, 28 U.S.C. § 1746:

Count Two: '232 Patent

Analysis Claim 1

1. **Claim 1 - A method of performing a function in a control device comprising:**
2. **storing a program in a control device, the control device receives a message from a communications medium, the message includes instructions to suspend execution of the stored program at a particular location of the stored program;**
3. With regards to the **storing a program in a control device** element, Zatarain (page 46) states, "A program created using the Infringing Software can be stored in the Infringing PLC. (See CoDeSys 2.3 Manual [ROCK0007410]; Albers 30(b)(6) Dep. Tr. 66:1-4, 86:2-4)."
4. Zatarain doesn't state specifically what functionality he is referencing in the CoDeSys 2.3 Manual. Zatarain refers to the "'Online' 'Sourcecode download'" command, but, he does not say that this command stores a program in a controller for the purpose of allowing the program to be executed from source code. As stated in the CoDeSys 2.3 manual with regards to "'Online' 'Sourcecode download'," "This command loads the **source code** for the project into the

controller system. This is **not to be confused** with the Code that is created when the project is compiled!" (ROCK0007410) (emphasis added) One value of the "'Online' 'Sourcecode download'" feature is that it allows a reference copy of the source code to be kept with the controller.

5. It is the "'Online' 'Download'" command found in the same manual on page 4-70 (ROCK0007399) that accomplishes what is discussed in the portion of the Albers testimony to which Zatarain refers in paragraph 139(b) of his Opening Expert Report. (Albers 30(b)(6) Dep. Tr. 86:2-4) The "'Online' 'Download'" command loads compiled code into the controller to be executed by the controller.

Analysis Claim 3

6. **Claim 3 – The method of claim 1, further comprising providing data to the communications medium in response to a data request message from a network while execution of the stored program is suspended.**

7. The Zatarain report addresses this claim on page 57. The report supports its contention that the WAGO-I/O system meets this claim limitation by pointing to a screen shot of CoDeSys 2.3 with a WAGO 758-870 controller. This screen shot shows the "Online" "Monitoring" functionality of CoDeSys 2.3 where "all displayable variables are read from the controller and displayed in realtime." (CoDeSys 2.3, page 2-24).

8. CoDeSys 1.5 had this same monitoring functionality. As stated in the manual under "Online" "Monitoring," "the visible variable declarations are followed by the monitoring of their current values in the controller." (CoDeSys 1.5, page 20)

Analysis Claim 11

9. **Claim 11 – The method of claim 5, further comprising providing data to the communications medium in response to a data request message from the network while execution of the stored program is suspended.**

10. The Zatarain report addresses this claim on pages 64 and 65. On page 65, the report supports its contention that the WAGO-I/O system meets this claim limitation by pointing to a screen shot of CoDeSys 2.3 with a WAGO 758-870 controller. This screen shot shows the

“Online” “Monitoring” functionality of CoDeSys 2.3 where “all displayable variables are read from the controller and displayed in realtime.” (CoDeSys 2.3, page 2-24)

11. CoDeSys 1.5 had this same monitoring functionality. As stated in the manual under “Online” “Monitoring,” “the visible variable declarations are followed by the monitoring of their current values in the controller.” (CoDeSys 1.5, page 20)

Count Three: ‘813 Patent

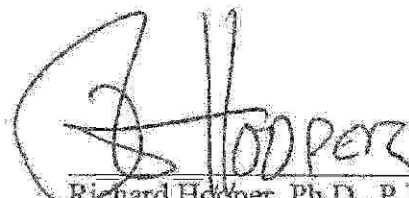
Analysis Claim 5

12. **Claim 5 – The system of claim 1, the file system and the execution engine being adapted to load one or more recipe files into an executing industrial control program upon executing a load instruction in an industrial control program.**

13. Paragraph 254 of my declaration, served on February 24, 2012, which states “One of ordinary skill in the art would understand that the files disclosed by Li would include recipe files,” should read as follows, “One of ordinary skill in the art would understand that the files disclosed by Stripf would include recipe files.” This corrects a typographical error of referring to Li instead of Stripf. Li is addressed in paragraph 253.

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I declare under penalty of perjury that the foregoing Second Supplemental Declaration of Richard Hooper, Ph.D., P.E. is true and correct to the best of my knowledge and belief. Executed on April 4, 2012.

A handwritten signature in dark ink, appearing to read "R. Hooper", is written over a horizontal line.

Richard Hooper, Ph.D., P.E.

(Signature)